

STATEMENT OF

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BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION
UNITED STATES SENATE
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Good afternoon, Mr. Chairman and members of the Committee. I am Tom Allegretti, President of the American Waterways Operators (AWO). AWO is the national trade association representing the inland and coastal barge and towing industry operating in U.S. domestic commerce. AWO is comprised of more than 375 individual companies, with a geographic scope ranging from New England to Alaska, and throughout the inland river system of the United States.

Mr. Chairman, we very much appreciate the opportunity to appear before you as you undertake this examination of legislation to do away with portions of the Jones Act. AWO believes strongly that a proposal such as S. 2390 would place at risk the important national security, economic, environmental and safety benefits the Jones Act provides to the United States, while offering the prospect of little material benefit to U.S. shippers and consumers who depend on waterborne transportation. As representatives of the largest single segment of the U.S. Jones Act fleet, AWO comes before you today with a simple message.

First, the Jones Act fleet is an extraordinarily productive and efficient part of the U.S. transportation infrastructure and it works where it counts – in the marketplace. Over the last 30 years, the Jones Act fleet has more than doubled in size and in cargo carrying capacity. The productivity of the fleet has more than tripled, outpacing productivity improvements in the U.S. economy as a whole. Today, the Jones Act fleet continues to grow with the addition of modern, efficient vessels constructed or adapted in response to shipper needs. The tugboat, towboat and barge industry is the largest single segment of the U.S. Jones Act fleet, both in number of vessels and in number of Americans employed therein. Our industry relies on the integrity of this law. Rather than weakening the Jones Act, Congress should encourage shippers and carriers to work together within the American framework provided by the Jones Act to find market-based solutions to site-specific transportation needs. We know that such solutions can be found, and that U.S. shippers can find the safe, modern, efficient, and cost-effective water transportation they seek, because we provide that service daily in the marketplace.

Second, the Jones Act provides important benefits to the Nation. It's because of those benefits that successive Congresses and Administrations of both parties have consistently reaffirmed strong support for the cabotage laws. There are some that claim that any law with such long vintage and even longer roots must surely have outlived its usefulness in the contemporary context. I would submit that the opposite is true: the Jones Act has endured for so long precisely because it continues to provide real value to the U.S. economy, U.S. national security, and America's natural environment. Indeed, the barge and towing industry – competitive, productive, and dynamic – serves as a striking example of the vitality of the Jones Act fleet and its continuing

value both to the nation as a whole and to the shipper-customers we are in business to serve.

The Jones Act is the foundation on which these benefits to our industry, to our customers, and to the Nation, are built. The Jones Act is indivisible. Congress cannot eliminate one part of the Jones Act and still preserve the overarching benefits to the nation it provides. AWO strongly opposes proposals such as S. 2390 that would place at risk the important national security, economic, environmental and safety benefits the Jones Act provides to the United States, while offering the prospect of little material benefit to U.S. shippers and consumers who depend on waterborne transportation.

Recently, some members of this committee have become concerned that the Jones Act inhibits commercial opportunities for their constituents and have proposed repealing portions of the cabotage laws to alleviate these concerns. AWO members understand these senators' desire to ensure the competitiveness of U.S. businesses, and we share your interest in ensuring that shippers' needs for reliable, safe and cost-effective transportation are met. After all, our industry exists to meet those needs. However, we are convinced that shipper needs can be met effectively within the framework of the Jones Act, and without undermining the important national goals served by the cabotage laws.

The Barge and Towing Industry is a Vital and Productive Component of a Market Driven and Competitive U.S. Jones Act Fleet

Mr. Chairman, let me begin by attempting to place the U.S. barge and towing industry in the context of the Jones Act fleet. The Jones Act sustains employment for 124,000 Americans, more than one-fourth, or 33,000, of whom are employed in the inland and coastal barge and towing industry. At no cost to the U.S. taxpayer, the unsubsidized Jones Act fleet and the jobs it creates support livelihoods for individuals and families in communities along all four coasts and throughout the interior river systems of the United States. Tens of thousands of those jobs are held by Americans employed in the inland and coastal barge and towing industry.

With jobs come money, and each year the Jones Act trades pump nearly \$15 billion into the U.S. economy, including more than \$4 billion in net wages for U.S. citizens. The barge and towing industry's share of that contribution amounts to more than \$5 billion, including nearly \$1 billion in

crew wages and \$640 million in federal tax revenues. That economic impact is multiplied by the thousands of additional jobs created in downstream parts of the domestic economy where Jones Act-related income is spent. In these times of continuing federal budget constraints, it is worth noting that the economic stimulus provided by the Jones Act occurs without federal subsidies of any kind, and that Jones Act companies bear the full brunt of U.S. tax laws.

Revolutionary changes in the last thirty years have altered dramatically the face of America's domestic fleet. Nowhere has this change been more pronounced than in the emergence of non-self-propelled vessels – barges – as the vessel of choice in many parts of the domestic fleet. Between 1965 and 1995, the number of barges of equivalent or greater capacity to the oceangoing vessels generally counted as comprising the U.S.-flag merchant fleet (i.e., vessels 1000 gross tons or larger) experienced nearly a fourfold increase – from 438 to 1,703.

The modern barge and towing industry – productive, efficient, and competitive – is an integral part of the U.S. Jones Act fleet and a striking example of the value-added service it provides to U.S. shippers. Let me offer a few examples:

On the Columbia-Snake River system, without the efficiency, economy and reliability of barges, the cost of products that move upriver would dramatically increase for consumers in the Pacific Northwest. To move a bushel of grain downriver from Lewiston, Idaho, or Clarkston, Washington, to Portland or Vancouver costs a shipper 18-19 cents per bushel by barge, 30-38 cents per bushel by rail, if available, and 42-45 cents per bushel by truck. The commercial barge industry helps ensure price competitiveness with these other modes of transportation, which in turn allows producers in the northwestern United States to be more competitive in world grain markets.

On the inland rivers, tow sizes are on the rise. Just five years ago, a towboat southbound on the Lower Mississippi River might have pushed 35 barges; today's fleets can move closer to 40 barges per voyage. Tons per barge are also on the increase, as dry cargo barges today carry some 3-4 percent more cargo per barge than just five years ago. In the September/October 1997 edition of *WorkBoat* magazine, Stephen Lucas, logistics director for Louis Dreyfus Corp., praised the development of the new high-capacity barge, saying, "Freight customers like it, and people have started to build for those markets." These increased efficiencies enable

us to offer lower prices too. These savings are significant, particularly important to agricultural shippers since more than 50 percent of all U.S. grain bound for export – some 60 million tons – moves by barge.

On the East Coast, the barge industry's movement toward greater use of integrated towing units and deeper notches on barges allows tugboats to push barges instead of pulling them. This more efficient mode of operation lends itself to increased ton-miles and more cargo moved more quickly and reliably along the coasts.

In addition, barges are well suited for all kinds of intermodal traffic. Barges have long been used for intermodal service on U.S. waters and represent a significant part of such services today. Each year, large intermodal barges transport more than 400,000 containers of cargo up and down the East Coast of the United States, a figure which includes sophisticated triple-deck roll-on/roll-off barges that carry thousands of truck trailers loaded with goods for Puerto Rico each year.

Jones Act critics inexplicably seek a merchant fleet of yesteryear, and when they can't find it, claim its absence is an example of the act's failure. For example, their oft-cited "absence of a single coastal freighter on the East Coast of the United States" is offered up as evidence of the failure of the Jones Act to preserve a vibrant U.S. coastwise trade. What the repealers misunderstand and overlook is the reality of the modern Jones Act fleet, a fleet in which the barge and towing industry plays a central part. There is, in fact, a thriving East Coast container barge business – at least three companies operating at least eight barges – offering regularly scheduled liner service. Examples of the broad uses now being made of barges in traditional oceangoing services include the following:

Crowley American Transport's intermodal services to Puerto Rico from the U.S. East (Pennsauken, NJ, and Jacksonville, FL) and Gulf (Lake Charles, LA) coasts. Crowley has 13 roll-on/roll-off barges dedicated to the Puerto Rico trade.

Young Brothers' inter-island service in Hawaii, founded in 1913, providing common-carrier service with eight general cargo barges capable of carrying construction materials, containers, roll-on/roll-off trailers, and palletized cargoes.

Extensive barge-based services to Alaska from West Coast ports such as Seattle, WA.

Trailer Bridge's recently announced new U.S. East Coast (NY-FL) intermodal service employing three barges with a combined capacity of approximately 1,700 TEUs.

All of these services have been developed – and are continually being improved – to meet the transportation needs of U.S. shippers.

Mr. Chairman, American shippers and the U.S. marine transportation industry are partners with a significant stake in each other's prosperity and in the economic competitiveness of the United States. Our common history is replete with examples of our two interests joining together to achieve goals that enhance the competitiveness of U.S. products in the domestic and global marketplace. The partnership between American shippers and domestic marine transportation has produced important benefits to both our industries, and to the nation as a whole. We work together every day in the marketplace

Our two industries also work together on public policy matters. Annually, we work together to ensure an adequate federal investment in the maintenance and modernization of the inland waterways infrastructure. Our mutual challenges continue and our continued cooperation is imperative. This is amply demonstrated by the administration's meager budget proposal this year for waterways maintenance and construction. The maritime and the shipper industries need to work together to ensure the free flow of commerce through a modern inland waterways system and through adequately dredged and maintained ports and harbors.

From our perspective, the Jones Act is as fundamental a part of the infrastructure that serves the American shipper as are the locks and dams on our inland waterways system. It is the basis on which a capital investment worth more than \$25 billion has been made by our industry to meet the needs of U.S. shippers. Destroying that infrastructure would be as detrimental to our nation as letting the locks and dams crumble. The Jones Act fleet is part of an integrated domestic transportation system that includes American railroads, truckers, airlines and pipelines. The Jones Act fleet is a deregulated industry characterized by healthy competition both between marine companies and with other modes of transportation. We are proud to provide safe, reliable, inexpensive and environmentally benign transportation to American shippers.

We appreciate that there are some in the shipper community who have specific concerns about the domestic transportation service available for their products. Our industry is eager to meet with these potential customers to discuss how we can provide the service they need. We know, because we see everyday in the marketplace, that Jones Act transportation has served U.S. shippers well in those markets where waterborne transportation currently is the mode of choice. Given that experience, we are confident that the same efficiency, service, and cost-effectiveness that have made the Jones Act transportation work for shippers in those traditional markets can also be brought to bear in new or emerging markets. We simply need to get business people together to talk about how.

Unfortunately, that kind of conversation – serious discussion between shippers and carriers about their transportation needs and the specific services necessary to meet them – has not always preceded calls for Jones Act repeal. Instead, some critics have concluded that the Jones Act has failed U.S. shippers interested in exploiting new water transportation options, when in fact, this option has not seriously been tried. Let me cite the most notable example.

Jones Act critics claim that because of the Jones Act, American grain growers cannot sell their product to North Carolina livestock farmers, who, in turn, cannot expand their operations without importing grain from Canada. Hog and turkey producers in North Carolina now need to purchase grain from the Midwest to feed their livestock because North Carolina's grain harvest is inadequate to meet the needs of the expanding industry in the state. Grain is currently transported from the Midwest to North Carolina livestock producers primarily by rail. These producers claim that there are no available Jones Act qualified vessels available at any price that are capable of transporting grain to North Carolina by water. The North Carolina livestock farmers claim that Jones Act restrictions have forced producers to purchase Canadian feed wheat, carried on foreign-flag vessels, in order to meet their feed quotas, even though there is an abundance of American grain produced in the Great Lakes region.

In fact, there are at least 26 oceangoing barges in the domestic Jones Act fleet, ranging in capacity from 14,500 to 38,000 deadweight tons, which are capable of transporting the feed needed by North Carolina livestock farmers. There are also thousands of U.S.-flag barges which could move midwestern grain down the Mississippi River to the Port of New Orleans for transshipment on a U.S.-flag, Jones Act-qualified barge or ship across the Gulf of Mexico, around the tip of Florida,

and up the East Coast to North Carolina.

Indeed, after learning about the transportation needs of the North Carolina livestock farmers, Jones Act vessel operators expressed interest in pursuing this business. Surprisingly, Mr. William B. Saunders of Murphy Family Farms told the *Winston-Salem Journal* that the decline of the U.S. merchant fleet made it impossible for him to find an American ship to carry his corn and wheat. He was quoted as saying, “There ain’t a damn ship out there that I can bring them on that’s got an American flag hanging on it.” In fact, at least four coastal U.S. vessel operators have directly approached Murphy Family Farms to express interest in learning more about their transportation needs and submitting proposals to meet those needs.

The Jones Act critics are wrong: U.S. vessels are available to move grain to North Carolina, and U.S. vessel owners are ready and willing to work with our potential customers to find creative, efficient, and cost effective ways to meet their transportation needs. The North Carolina feed grain situation is no reason to amend the Jones Act and undermine the important benefits it provides to the United States.

The Jones Act is Vital to the Advancement of Key Modern Societal Goals

Those benefits are as real and relevant today as they were when the cabotage laws were enacted. In addition to providing important economic benefits as an integral and vital part of the U.S. transportation system (including U.S. citizen jobs in U.S. citizen-owned enterprises, and the federal and state tax revenues derived therefrom), the Jones Act plays a critical role in advancing key societal goals: the security of our nation and the protection of our natural environment.

Consider, first, the national security benefits which the Jones Act provides, a subject essential to a complete understanding of the continuing value of the U.S. cabotage laws. While it is obvious that U.S. national security needs have changed significantly since the passage of the Jones Act, what has not changed in these last several decades is the key role which the Jones Act fleet plays in safeguarding U.S. national and economic security. The Jones Act ensures U.S. control of essential transportation assets and related infrastructure in both peacetime and wartime, and the Jones Act fleet provides vessels and crews to meet emergent U.S. security needs without requiring the government to bear the substantial costs of building, manning, and maintaining these capabilities.

Indeed, in a letter of August 27, 1998, addressed to the Chairperson of this Committee's Surface Transportation and Merchant Marine Subcommittee, the Assistant Secretary of the Navy for Research, Development and Acquisition clearly stated "the Navy's strong support for the Jones Act and its opposition to any change to the law." The letter went on to address the particular importance of the law's U.S.-build requirement. The letter concludes, "the Jones Act is vital to our national security and to the future of the U.S. Navy." This letter is only the most recent in a long line of expressions of support for the Jones Act and recognition by the Department of the Navy of the importance for national security of all the components of the cabotage laws: U.S.-build, U.S.-ownership, and U.S.-manning requirements.

Second, and worthy of particular note by this committee, the Jones Act affords the U.S. a high standard of safety and environmental performance that minimizes risk to persons, property, and the natural environment. The U.S. merchant marine is subject fully and continuously to the full force of federal, state and local law, to a degree that foreign-flag vessels are not. Indeed, the Coast Guard's "Port State Control" initiative, which aims to crack down on substandard operators by refocusing agency resources on foreign-flag vessels in U.S. waters, further underscores the value of the Jones Act in this regard. And, even when something does go wrong – even a calamitous spill like the *Valdez* incident nine years ago – it is much easier to obtain relief from a U.S.-owned, U.S.-based Jones Act corporation than from a one-ship, foreign-flag operator based somewhere else in the world.

Not only does the Jones Act advance the cause of marine safety and environmental protection by ensuring that domestic operators comply with statutory and regulatory standards which are among the world's most rigorous, but the cabotage laws also benefit the environment because Jones Act operators, as U.S.-based companies with U.S. employees and roots in U.S. communities, simply have a greater stake in the preservation of our waters and coastlines. AWO members, for example, have demonstrated their commitment to marine safety and environmental protection by voluntarily adopting the AWO Responsible Carrier Program, a code of practice which exceeds federal statutory and regulatory operating requirements governing our industry. Participation in the program is now a condition of AWO membership. The AWO-Coast Guard Safety Partnership, a mechanism which brings the Coast Guard and the barge and towing industry together to find cooperative solutions to marine safety and environmental protection problems facing our nation, is another manifestation of the commitment which our industry, as domestic operators, has made to the national objective of a safe, pollution-free natural environment, and to

our customers' objective of reliable and environmentally safe transportation of their cargoes.

The Jones Act provides the level playing field, the sense of national community, and the stable marketplace which allows initiatives like the Responsible Carrier Program and the AWO-Coast Guard Safety Partnership to take root and to flourish. To do away with the Jones Act would undermine the foundation of these important initiatives and send the strong signal to the American public that the safety of U.S. waters and the integrity of our natural environment is worth compromising for the speculative possibility of marginally lower transportation costs.

Mr. Chairman, we understand that the proponents of the legislation under consideration by the Committee today say they do not intend to repeal the Jones Act and purport to only have the limited purpose of allowing foreign-built vessels to carry certain cargoes in the domestic trades under certain circumstances. We simply do not accept that this limited impact is possible – or intended. The transportation network created and fostered under the Jones Act is seamless. Whatever the limited nature of this first piecemeal reform, it cannot help but have the result of undermining the capital basis that supports the Jones Act fleet and ensures continued investment in technologically advanced vessels designed to meet the needs of U.S. shippers. In addition, over the past three years, proponents of Jones Act “reform” have shown time and again that, whatever the stated intention of the legislation as explained in press releases, the ultimate goal is complete repeal of the Jones Act. These reform initiatives usually have more sweeping implications than may be apparent at first blush. For example, last year's Freedom to Ship Act (S. 1138) was described as providing a limited exception to the Jones Act to allow foreign vessels to carry cargo in the U.S. domestic trade on a narrowly defined “spot market” basis. In fact, the bill was drafted in such a way as to give foreign shipowners – free from the constraints of U.S. labor, tax, and environmental standards – virtually unfettered access to the domestic trade. Similarly, S. 2390 is described primarily as an attempt to provide U.S. agricultural producers with access to foreign-built vessels otherwise qualified to engage in coastwise commerce. In fact, the bill covers liquid as well as dry cargo shipments and would also relax U.S. ownership and control requirements as well as the U.S.-build requirements of the Jones Act. Both the U.S.-build and the U.S. ownership requirements are integral to the Jones Act and their repeal would destroy the integrity of the Jones Act fleet.

Legislation that attempts to repeal all or part of the Jones Act has significant consequences we should seek to avoid, not engender. It risks the loss of U.S. seafaring jobs, the loss of U.S.

shipbuilding jobs and the loss of tax revenues received from Jones Act companies and those who they employ. It will weaken the U.S. national security infrastructure, and put the environment and human safety at risk by allowing foreign-flag vessels to dominate our domestic trade. AWO believes these risks are not worth taking. Indeed, the very steps that would be needed to mitigate these risks – such as continuing to require the use of U.S. crewmembers on domestic voyages, or applying U.S. safety and environmental standards to foreign vessels allowed to serve in the domestic trade – tend to eliminate the prospect of substantially lower cost transportation which proponents of Jones Act reform claim as their objective.

Conclusion

Mr. Chairman, we believe the better approach to Jones Act repeal is to encourage shippers and carriers to work together within the framework provided by the Jones Act to find market-based solutions to the site-specific transportation needs that have been identified as the impetus for S. 2390 and the other Jones Act reform measures like it. We know that such solutions can be found, and that U.S. shippers can find the safe, modern, efficient, and cost-effective water transportation they seek, because we provide that service daily in diverse markets throughout the United States. We look forward to working with our customers and potential customers to meet their needs and to working with Congress and the Administration to uphold the national security, economic, environmental and safety benefits provided by longstanding U.S. cabotage law.

Thank you very much for the opportunity to appear here today. I would be happy to answer any questions you or other members of the committee may have.